THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.15602 of 1998

Dated: 07.03.2007

Between:

S.K.Akbar S/o S.K.Silar

..... PETITIONER

AND

The District Collector Nellore and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.15602 of 1998

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in not paying compensation to the petitioner for a portion of the land acquired from him for public purpose as arbitrary and illegal.

It is the case of the petitioner that his grandfather owned an extent of Ac.4.75 cents of land in patta No.142. Survey Nos. 45/2, 45/5B and 45/5D in Sullur village, Sullurpeta Mandal, Nellore District, and considering his possession, the revenue authorities have also granted ryotwari patta in his favour. While so, during the year 1968, land acquisition proceedings were initiated proposing to acquire an extent of Acs.2.82 cents of land out of the said extent, on the ground that the said land is required for the public purpose. Compensation for an extent of

Acs.2.59 cents was paid, but for the remaining extent of Ac.0.23 cents, compensation was not paid. During his life time, his grandfather made several representations to the respondents to pay compensation for the said extent, and after his death in the year 1987, the petitioner also made representations to the respondents to pay compensation to him. Ultimately, on 14.03.1996 the petitioner was asked to appear before the Special Tahsildar, Land Acquisition Nellore, on 25.03.1996. Accordingly, he appeared before him and submitted his case, but no orders were passed. Again, on 31.10.1997 the petitioner appeared before the third respondent along with claim papers, and he directed the second respondent to settle the matter within fifteen days, but the second respondent has not initiated any action. Hence, this writ petition.

The respondents filed a counter stating that the disputed extent of Ac.0.23 cents of land of the petitioner has been used as a cart track since 1951, and till 1996 neither the petitioner nor his grandfather raised any objection. It is further stated that the disputed extent was excluded from acquisition proceedings as it has been used as a cart track by the public, and for the remaining extent, Award was passed fixing compensation and the petitioner's grandfather also received the compensation, and as such, without challenging the Award, no direction can be sought to the respondents to pay compensation for the extent of Ac.0.23 cents of land.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

Learned Government Pleader for Land Acquisition submitted that pursuant to the interim order passed by this Court in W.P.M.P.No.15619 of 1998 directing the authorities to consider the representation of the petitioner, the third respondent passed an order dated 02.07.1998

stating that the said extent of petitioner's land was excluded from the purview of acquisition proceedings as it was treated as a passage by the farmers and other public, and if he has any objection, he may approach the Civil Court by way of reference under Section 18 of the Act. Questioning the same petitioner filed W.P.No.22461 of 1998, and the said writ petition was disposed of on 17.03.2005 observing that the petitioner has established his ownership over the disputed extent, and therefore, entitled for compensation on par with others, whose lands were acquired under the notification and compensation shall be paid as per the Award dated 26.02.1971. He further submitted that pursuant to the said order, the third respondent issued proceedings No.RC.A.4041/98 dated 14.11.2006 fixing the compensation.

In the light of the said submissions, this Court is of the view that the prayer sought in this writ petition cannot be granted. If the petitioner has any grievance, he may question the proceedings, dated 14.11.2006, issued by the third respondent.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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07.03.2007

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